

REMARKS

Applicants have amended claim 101 by correcting its dependency so that it is now dependent on claim 100 and not claim 98.

In the Office Action of June 1, 2006, the Examiner states that the instant application contains claims directed to more than one species of a generic invention, and that these species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The Examiner has restricted the invention based on three independent claims:

a) Independent claim 64, drawn to a conjugate for transferring a nucleic acid molecule into a cell, wherein the conjugate must have a nucleic acid molecule, a translocation domain, and an antibody specific for a surface antigen of said cell, wherein these three elements are conjugated by means of at least one bridging agent such that the conjugate is transfected effectively into said cell;

b) Independent claim 77, drawn to a conjugate for transferring a nucleic acid molecule into a cell, wherein the conjugate must have a nucleic acid molecule, an antibody specific for a cell surface antigen, and a nucleic acid binding molecule, such that the conjugate is transfected effectively into said cell; and

c) Independent claim 83, drawn to a conjugate for transferring a nucleic acid molecule into a cell, wherein the conjugate must have a nucleic acid molecule, an antibody specific for a cell surface antigen, and a peptide that can be cleaved with

at least one glycolytic and/or proteolytic enzyme, such that the conjugate is transfected effectively into said cell.

The Examiner states that the species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The technical feature linking the independent claims is a conjugate for transferring a nucleic acid to a cell, wherein the conjugate must have a nucleic acid, and an antibody specific for a surface antigen of said cell. According to the Examiner, the technical feature linking the independent claims is not novel, and none of the independent claims are novel in view of the International Search Report cited references. Applicants respectfully traverse this Restriction Requirement.

According to the Examiner, the inventions identified as relating to independent claims 64, 77 and 83, do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The Examiner argues that the technical feature linking the independent claims is well known in the art, and therefore it cannot be considered a special technical feature, and therefore there is no unity of invention. Applicants believe this is improper.

Section 806.02 of the MPEP states, "For the purpose of a decision on the question of restriction, and for this purpose only, *the claims are ordinarily assumed to be in proper form and patentable (novel and unobvious) over the prior art*" (emphasis added). Applicants contend that the Examiner is taking

patentability into account when reviewing the groups of inventions under PCT Rule 13.1.

Furthermore, Applicants submit that if the Examiner were to search the group corresponding to claim 64, would encompass the elements of the claims of the other two groups. Although various structures of the conjugates are in the scope of claim 64, the essential features for the primary technical effect of the conjugate are the presence of a nucleic acid molecule, a translocation domain and an antibody, and optionally of a nucleic acid binding molecule. While the particular structure of the conjugate and the nature of the bridging agent may result in further technical advantages, they are not essential to the primary technical effect of the conjugate.

As Applicants are required to make an election, Applicants elect the invention drawn to a conjugate comprising a nucleic acid molecule, a translocation domain, and an antibody, corresponding to independent claim 64 and dependent claims 65-76, 91-96 and 99-126.

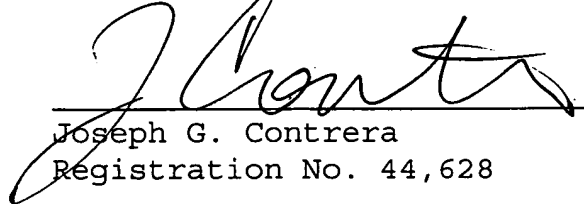
The Applicants are also required to select a single species of conjugate. Applicants elect a conjugate with no cleavable peptide comprising a nucleic acid molecule, a translocation domain, an antibody, and a nucleic acid binding molecule, in which the antibody, translocation domain and nucleic acid binding molecule are attached to a molecule of the avidin type by means of a biotin molecule, and in which the nucleic acid binding molecule is a histone protein. Claims readable on this embodiment are claims 64, 75, 91, 92, 95 and 99-126.

It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present

application is in condition for examination on the merits. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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